



PATENT APPLICATION  
Attorney Docket 6533/53815

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Robert Packer  
Serial No.: 10/790,272  
Filed: March 1, 2004  
For: *Method for Explicit Data Rate Control in a Packet  
Communication Environment without Data Rate Supervision*

TERMINAL DISCLAIMER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Petitioner, Packeteer, Inc., owner of 100 percent interest in the application identified above, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior patent numbers 6,038,216, 6,298,041, and 6,741,563. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successor and assigns.

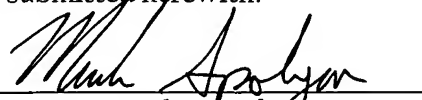
In making the above-disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patents, as presently shortened by any terminal disclaimer in the event that either of the prior patents later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court or agency of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is the Attorney of Record and authorized to act on behalf of the petitioner.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The terminal disclaimer fee under 37 C.F.R. 1.20(d) is submitted herewith.

By:

  
Mark J. Spolyer

Attorney of Record, Reg. No. 42,164

Date: November 15, 2004